

JAN 29 2001

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January 29, 2001

OUR FILE NO.
 20828-00101-60
 1554-101-60

Magalie R. Salas, Secretary
 Federal Communications Commission
 445 12th Street, SW, Room TW-A325
 Washington, DC 20554

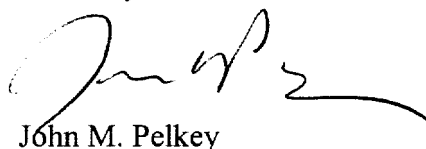
Re: Amendment of Section 73.202 (b)
 Table of Allotments
 Alberta, Virginia, and Whitakers, North Carolina
 MM Docket No. 00-245 /

Dear Ms. Salas,

Transmitted herewith on behalf of MainQuad Broadcasting, Inc., are an original and four copies of the comments of MainQuad Broadcasting, Inc., in the above-referenced proceeding.

If there are any questions concerning this submission, please contact the undersigned directly.

Sincerely,



John M. Pelkey

JMP/gk

Number of Copies rec'd 074
 A B C D E

JAN 29 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before The
Federal Communications Commission
 Washington, D.C. 20554

In the Matter of]	
]	
Amendment of Section 73.202(b)]	MM Docket No. 00-245
]	RM-9971
Table of Allotments]	
FM Broadcast Stations.]	
(Alberta, Virginia, and]	
Whitakers, North Carolina)]	

To: Chief, Allocations Branch

Comments of
MainQuad Broadcasting, Inc.

By Petition for Rulemaking filed July 26, 2000, Broomfield Broadcasting, Inc. ("Broomfield"), then permittee of WAQD(FM), Alberta, Virginia, requested that the Commission institute a rulemaking proceeding to amend Section 73.202(b) of the Commission's rules, the Table of FM Allotments, to substitute Channel 276C3 for Channel 276A at Alberta, Virginia, reallocate Channel 276C3 from Alberta, Virginia, to Whitakers, North Carolina, modify the license of WAQD(FM) to specify operation on Channel 276C3 at Whitakers, North Carolina, and allocate Channel 299A to Alberta, Virginia.¹ In response, the Commission released a *Notice of Proposed Rule Making* ("NPRM") in the above-

¹ Because the requested allocation of Channel 276 to Whitakers is mutually exclusive with the WAQD(FM) construction permit, the proposal qualifies for treatment under Section 1.420(i) of the Commission's rules.

captioned proceeding proposing the requested changes to the Table of Allotments and soliciting the submission of comments by January 29, 2001. MainQuad Broadcasting, Inc. ("MainQuad"), through counsel, hereby submits its Comments in response to the *NPRM*. MainQuad is Broomfield's successor in interest by virtue of the assignment by Broomfield to MainQuad of the construction permit for WAQD(FM).²

I. Introduction.

WAQD(FM) is presently allocated to Alberta, Virginia, and is authorized to operate on Channel 276A.³ MainQuad seeks to change WAQD(FM)'s community of license from Alberta, Virginia, to Whitakers, North Carolina, because Whitakers, North Carolina, has a need for first local service -- a need that can be fulfilled without depriving Alberta of its

² On August 28, 2000, the Commission granted the assignment of Broomfield's construction permit to MainQuad (File No. BAPH-20000711AAQ). The assignment was consummated on October 6, 2000.

³ Because the terms of the WAQD(FM) construction permit required that WAQD(FM) commence operations prior to December 21, 2000, MainQuad initiated program tests of WAQD(FM) just prior to that date. Almost immediately thereafter, MainQuad was forced to cease program tests because of numerous interference complaints that had been received by the Mayor of Alberta. The complaints all claim that WAQD(FM) is causing interference to Television Channel 12, which operates on a frequency that bears a second harmonic relationship to FM Channel 276, which is the channel that is currently allocated to Alberta and the channel on which WAQD(FM) is authorized to operate. Testing of the WAQD(FM) transmitter indicates that it is operating in compliance with the Commission's rules -- thus suggesting that the problem may be due to the equipment that the complainants must use to receive Channel 12, which originates from Richmond, Virginia, a community that is approximately 55 miles from Alberta. The existence of this problem highlights the need for expeditious action on MainQuad's request to reallocate Channel 276 from Alberta and to instead allocate to Alberta Channel 299, which does not bear a second harmonic relationship to Channel 12.

local transmission service and which will result in a significant expansion of service as described more fully below. *See Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

In *Revision of FM Assignment Policies and Procedures*, 90 FCC2d 88, 91 (1982), the Commission articulated its priorities in considering proposals to change the FM Table of Allotments. Those priorities indicate that the public interest is best served by proposals that provide for first local service and that allow increased coverage. As is explained below, MainQuad's proposal achieves both of these objectives. As a result, the proposal should be adopted.

II. Whitakers is a Community in Need of Local Aural Transmission Service.

According to the 1990 census, Whitakers has a population of 860 people. It is an incorporated community with a mayor and its own five-member town council. It also has its own police service, volunteer fire department, public library and post office. Its businesses include, among others, Whitakers Auto Supply, Whitakers Food Center, Whitakers Gin Company, Whitakers Medical Center, Whitakers Pharmacy and Whitakers Used Tires. In short, Whitakers is a community deserving of first local service.

III. The Reallotment of Channel 276 to Whitakers Can Be Accomplished Without a Loss of Service to Alberta.

The substitution of Channel 276C3 for Channel 276A at Alberta and reallocation of Channel 276C3 from Alberta to Whitakers need not result in Alberta's loss of transmission service. Not only has Alberta not yet come to rely upon service from WAQD(FM), but MainQuad has also requested, and the Commission has proposed, that Channel 299A be allocated to Alberta as a replacement for Channel 276A.⁴

IV. The Substitution of Channel 276C3 for Channel 276A at Alberta, Reallocation of Channel 276C3 From Alberta to Whitakers and the Allocation of Channel 299A to Alberta Can be Accomplished in Full Compliance With the Commission's Engineering Criteria.

If the substitution of Channel 276C3 for Channel 276A at Alberta is granted, Channel 276C3 can be reallocated to Whitakers as its first local service in full accordance with the Commission's rules. Incorporated herein by reference, and provided herewith for the convenience of the staff as Exhibit 1, is the July 21, 2000 Engineering Statement of Frank White that was provided with Broomfield's Petition for Rulemaking. Tab A to that Engineering Statement supplies an engineering study of the proposed reallocation of Channel 276C3 to

⁴ Because MainQuad is proposing to allocate Channel 299 to Alberta, and to apply for that channel if allocated, the instant rulemaking would not result in the creation of gain and loss areas.

Whitakers demonstrating compliance of the proposal with the technical standards for reallocating a channel. As can be seen from that study, the proposed allotment can be awarded to Whitakers in full compliance with the FM spacing rules. In addition, the study reflects that operation from the proposed reference coordinates of North Latitude 36° 11' 23" and West Longitude 77° 51' 09" would provide city grade service as required by Section 73.315 of the Commission's rules. Similarly, as the Commission noted at paragraph 3 of the *NPRM*, Channel 299A also can be allocated to Alberta in full compliance with the Commission's engineering requirements.

V. The Instant Proposal Would Result in First Local Service to a Greater Population and Substantial Additional Reception Service – thus Yielding a Superior Arrangement of Allotments.

Permitting MainQuad to change WAQD(FM)'s community of license from Alberta, Virginia, to Whitakers, North Carolina, substituting Channel 276C3 for Channel 276A at Alberta and reallocating Channel 276C3 to Whitakers would permit first local service to a greater number of people than is currently the case. According to 1990 census figures, Whitakers has a population of 860 people, while Alberta has a population of 337 people, less than half of that of Whitakers.

Further, as is illustrated by the attached Engineering Statements (Exhibits 1 and 2) a facility operating on Channel 276C3

from the reference coordinates for Whitakers would serve substantially more people than would be served by WAQD(FM) from its construction permit facilities at Alberta. The Channel 276A WAQD(FM) facilities currently authorized by the Commission yield a 60 dBu contour encompassing 33,087 people over 2,436 square kilometers.⁵ By contrast, the Channel 276C3 facilities at Whitakers would provide service to a population of 172,026 people over 4,789 square kilometers⁶ -- an increase of 138,939 people, or more than 400%.

In addition, however, the proposal to also add Channel 299A at Alberta makes the above comparison superfluous inasmuch as this is not a case where the Commission is confronted with a situation where it must either add the channel at Whitakers *or* drop the channel at Alberta. It can both add a channel at Whitakers *and* maintain a channel at Alberta. Overall, the proposal would provide for first local service to 1,197 people in two communities. Additionally, assuming that the new Alberta facility were constructed at the WAQD(FM) site specified in the

⁵ See January 28, 2001, Engineering Statement of Frank White, which is attached hereto as Exhibit 2. The NPRM, relying upon information provided by Broomfield in its Petition for Rulemaking, indicates that the current Alberta facilities would provide reception service to 21,543 people over 1,426 square kilometers. The figures provided by Broomfield were correct when Broomfield submitted its Petition for Rulemaking on July 26, 2000. On September 20, 2000, however, the Commission granted Broomfield's application to modify the WAQD(FM) construction permit. The population and area coverage figures used above in the body of these Comments are based upon this modified construction permit

⁶ See Exhibit 1.

current construction permit, the proposal would provide reception service reaching a total of 205,113 people over 7,225 square kilometers.

The instant proposal thus better fulfills the Commission's allotment priorities than does the present situation. As the Commission explained in *Revision of FM Assignment Policies and Procedures*, the FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters (with co-equal weight being given to priorities (2) and (3)). 90 FCC2d at 91.

The instant proposal would permit two communities, Whitakers and Alberta, to receive or retain first local service, thus serving priority (3). A proposal to provide local service to two or more communities is to be preferred to a situation wherein only one community receives first local service. See *Archilla - Marcocci Spanish Radio Company*, 104 FCC 2d 405, 408 (1986).

Moreover, as noted above, the proposed Channel 276C3 facilities at Whitakers would provide additional received service to a population of 172,026 people, thus serving allocation priority (4). Balanced against such additional service is the fact that there would be no loss of service at Alberta as a result of the adoption of the instant proposal. Under such circumstances, the Commission has adopted

proposals virtually identical to MainQuad's. *See Genoa, Mt. Morris and Oregon, Illinois*, 14 FCC Rcd 2930 (1999); *see also Llano and Marble Falls, Texas*, 12 FCC Rcd 6809 (1997)) (wherein a proposal for a change in channel and community of license was approved, even though, unlike the present case, it involved a station that had been serving the community for many years and required the Commission to downgrade service to the community by substituting a vacant Class A channel for the Class C channel in question).

VI. MainQuad Will Apply for and Construct the Requested Facilities.

As required by Paragraph 2 of the Appendix to the *NPRM*, MainQuad hereby commits that, if Channel 276C3 is allocated to Whitakers, it will apply for modified facilities for WAQD(FM) so as to permit the construction of a station operating on Channel 276C3 at Whitakers and will promptly build those facilities upon grant of the application. Similarly, if Channel 299A is allocated to Alberta, MainQuad will apply for new facilities to operate on Channel 299A at Alberta and will promptly construct those facilities upon grant of the application.

Conclusion

For the reasons stated above, the public interest would be served by the substitution of Channel 276C3 for Channel 276A at

Alberta, Virginia, the reallocation of Channel 276C3 from Alberta, Virginia, to Whitakers, North Carolina, and the allocation of Channel 299A to Alberta, Virginia. Accordingly, MainQuad supports the Commission's proposal to amend the FM Table of Allotments as follows:


Community	Present	Proposed
Whitakers, North Carolina	-----	276C3
Alberta, Virginia	276A	299A

and to modify the construction permit of WAQD(FM) to specify Whitakers as the station's community of license.

Respectfully submitted,

MainQuad Broadcasting, Inc.

By:


John M. Pelkey
Michael I. Goulding
Its Attorneys

GARVEY, SCHUBERT & BARER
5th Floor, 1000 Potomac Street, N.W.
Washington, DC 20007

202/965-7880

Date: January 29, 2001

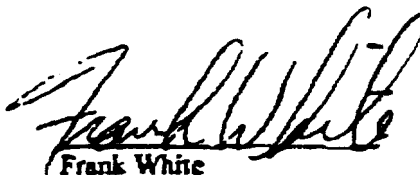
EXHIBIT 1

ENGINEERING STATEMENT

Attached are studies and maps in support of the petition for rulemaking of Broomfield Broadcasting, Inc. showing that the proposed substitution of Channel 276C3 for Channel 276A at Alberta, Virginia, reallocation of Channel 276C3 from Alberta, Virginia to Whitakers, North Carolina (Tab A) and allocation of Channel 299A to Alberta, Virginia (Tab B) would comply with the Commission's allocation and city-grade coverage requirements. Population studies for the outstanding construction permit for WAQD(FM), Alberta, VA, the proposed Whitakers facility on Channel 276C3 and the proposed Alberta facility on Channel 299A show the following:

1. Current Construction Permit for WAQD(FM), Alberta, VA:
50 dBu covers 21,543 people over 1,426 sq. km.
2. Whitakers Allocation on Channel 276C3:
50 dBu covers 172,026 people over 4,789 sq. km.
3. New Alberta Allocation on Channel 299A:
50 dBu covers 31,509 people over 2,481 sq. km.

I declare under penalty of perjury that the foregoing statements and the attached exhibits, which were prepared by me or under my immediate supervision, are true and correct to the best of my knowledge and belief.


Frank White

July 21, 2000

Mainquad Technology,
Weldon NC
Whitakers NC
103.1 C3

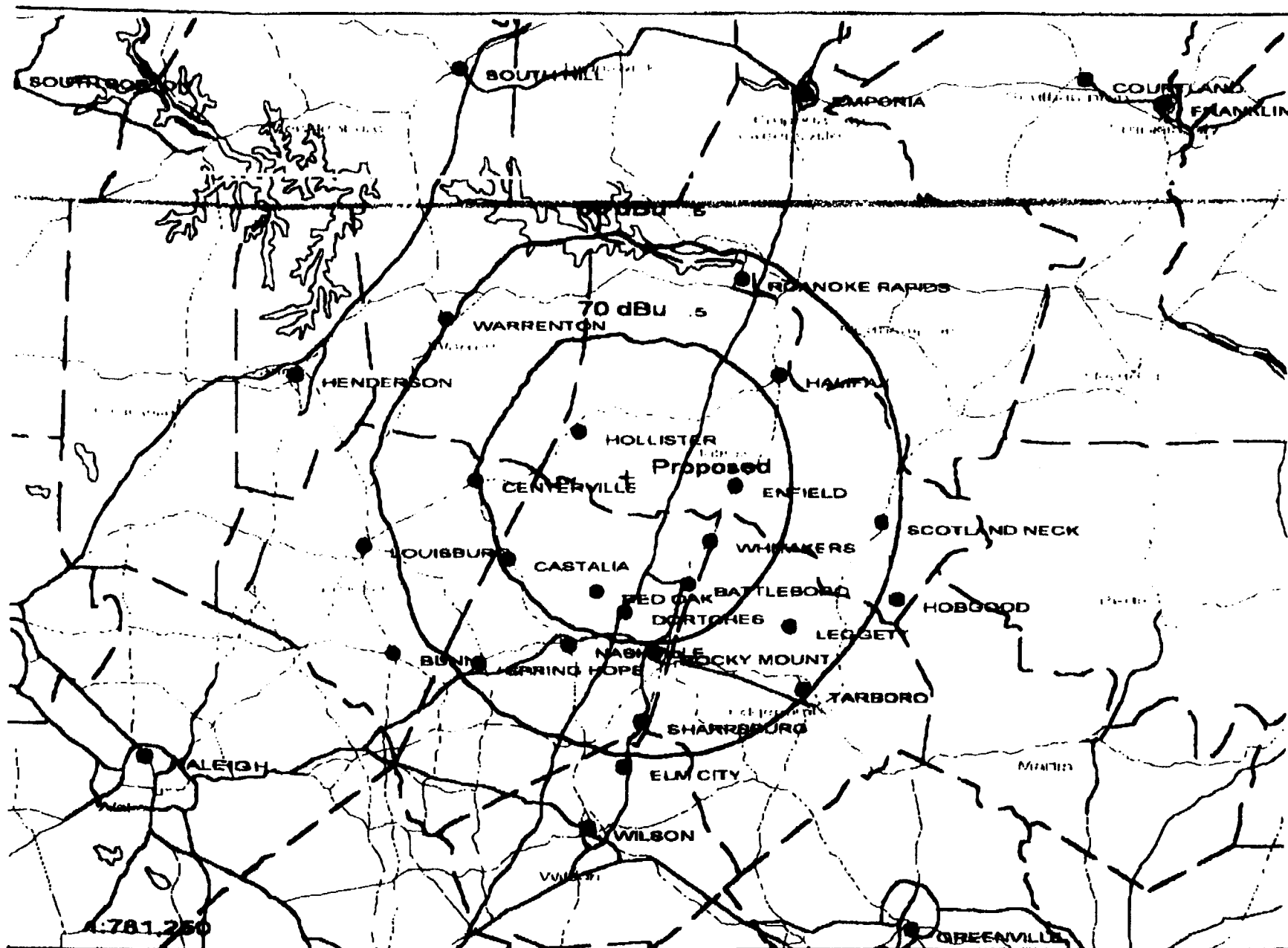
REFERENCE
36 11 23 N
77 51 09 W

CLASS = C3
Current Spacings

DISPLAY DATES
DATA 06-23-00
SEARCH 07-21-00

----- Channel 276 - 103.1 MHz -----

Call	Channel	Location		Dist	Azi	FCC	Margin
WAQD.C CP	276A	Alberta	VA	70.47	354.0	142.0	-71.53
WYFL	LIC 223C	Henderson	NC	31.64	276.9	31.0	0.64
WOWI	LIC 275B	Norfolk	VA	145.79	63.9	145.0	0.79
WMGV	LIC 277C1	Newport	NC	146.95	142.8	144.0	2.95
WWND.C CP	275A	Raleigh	NC	92.98	242.0	89.0	3.98
WHLQ	LIC 273A	Louisburg	NC	48.09	260.9	42.0	6.09
WAKG	LIC 277C1	Danville	VA	150.36	294.6	144.0	6.36
WCBZ	LIC 279C1	Williamston	NC	84.86	112.4	76.0	8.86
WELSEFM	LIC 275A	Kinston	NC	101.88	170.4	89.0	12.88
970327 APP	276A	Robbins	NC	164.27	241.0	142.0	22.27
970327 APP	276A	Robbins	NC	165.98	240.4	142.0	23.98
970326 APP	276A	Robbins	NC	167.93	240.7	142.0	25.93
970327 APP	276A	Robbins	NC	177.34	242.8	142.0	35.34
AVAC	VAC 276A	Robbins	NC	177.43	242.0	142.0	35.43
WERXFM	LIC 273C1	Columbia	NC	138.99	102.1	76.0	62.99



<p>Scale in km</p> <p>10 20 30 40 50</p>	<p>Proposed 276C3 25kW 155.35M AMSL</p> <p>N. Lat. 36 11 23 W. Lng. 77 51 09</p>	<p>Population 172,026</p> <p>Area 4,789 sq Km - 07/00</p>
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MainQuao Technology
Weldon NC
WAQD
107.7 Mhz

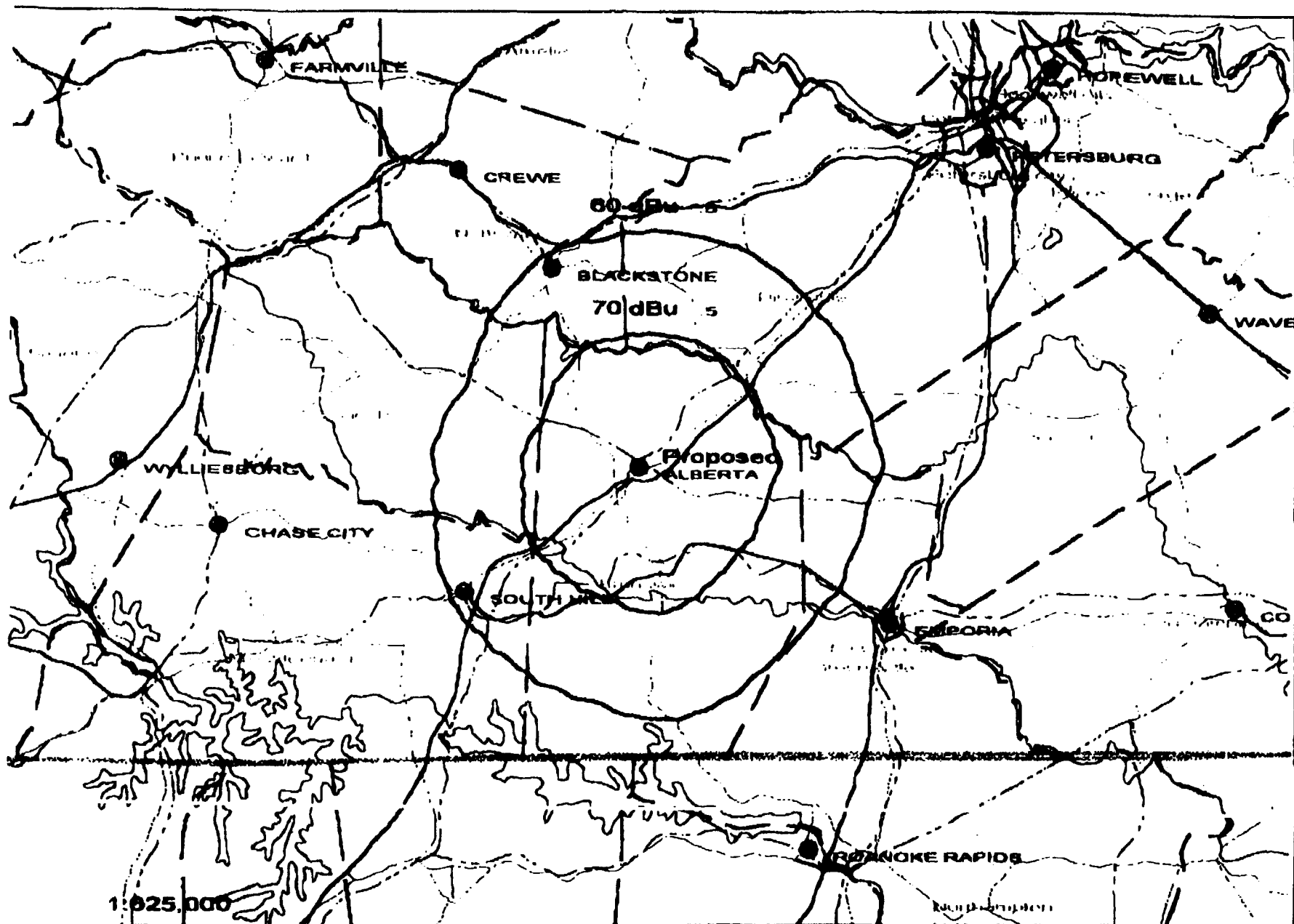
REFERENCE
36 51 53 N
77 52 59 W

CLASS = A
Current Spacings

DISPLAY DATES
DATA 06-23-00
SEARCH 07-18-00

----- Channel 299 - 107.7 MHz -----

Call	Channel	Location		Dist	Azi	FCC	Margin
WYYD.A	AUX 300C1	Amherst	VA	139.50	304.1	133.0	6.50
WNCTFM	LIC 300C	Greenville	NC	172.11	165.1	165.0	7.11
WNCTFM	LIC 300C	Greenville	NC	172.11	165.1	165.0	7.11
WSVYFM	LIC 299A	Windsor	VA	123.21	92.5	115.0	8.21
WYYD	LIC 300C1	Amherst	VA	148.58	297.4	133.0	15.58
WTOPEM	LIC 299E	Warrenton	VA	208.40	1.1	178.0	30.40
WKZL	LIC 298C	Winston-salem	NC	195.44	251.0	165.0	30.44
AVAC	VAC 297A	Powhatan	NC	72.73	12.5	31.0	41.73
WBBTFM	LIC 297A	Powhatan	VA	72.73	12.5	31.0	41.73
WWBR	LIC 300A	West Point	VA	115.14	55.2	72.0	43.14
AVAC	VAC 297F	Enfield	NC	77.20	167.4	31.0	46.20
WUMX	LIC 298A	Charlottesville	VA	135.08	337.2	72.0	63.08
WTTXFM	LIC 296A	Appomattox	VA	101.62	304.0	31.0	70.62



<p>Scale in km</p> <p>0 10 20 30 40</p>	<p>Proposed 299A 6kW 190.95M AMSL</p> <p>N. Lat. 36 51 53 W. Lng. 77 52 59</p>	<p>Population 31,509</p> <p>Area 2,481 sq Km - 07/00</p>
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JUL-21-00 10:02

FRANK WHITE 1201

TEL: 540-233-1000

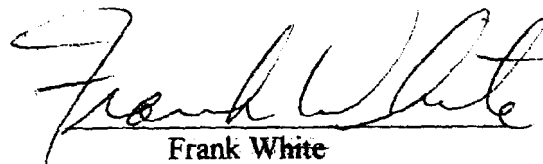
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EXHIBIT 2

Engineering Statement

I, Frank White, am the engineering consultant for MainQuad, Inc. In that role, I have performed an analysis of the area and population encompassed within the 60 dBu contour of the WAQD(FM) facilities authorized by the FCC in BMPH- 20000630AES. That analysis reveals that the 60 dBu contour of such facilities encompasses an area of 2,436 square kilometers and that 33,087 people reside within that 60 dBu contour.

I declare under penalty of perjury that foregoing statement is true and correct to the best of my knowledge and belief.




Frank White

January 28 , 2001

CERTIFICATE OF SERVICE

The undersigned, an employee of Garvey, Schubert & Barer, hereby certifies that the foregoing document was hand delivered* or mailed this date by First Class U.S. Mail, postage prepaid, to the following:

John C. Trent, Esq.
Putbrese Hunsaker & Trent, P.C.
100 Carpenter Drive, Suite 100
P.O. Box 217
Sterling, VA 20167-0217

 01/29/01

Grace M. Kavadoy

January 29, 2001